

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAMES DEAN WILKS,) Case No. C06-0615-RSL-JPD
)
Plaintiff,)
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v.)
)
KING COUNTY, et al.,) REPORT AND RECOMMENDATION
)
)
Defendants.)
)

I. INTRODUCTION AND SUMMARY CONCLUSION

Plaintiff is an inmate at the King County Correctional Facility (“Jail”) in Seattle, Washington who is proceeding pro se and in forma pauperis in this 42 U.S.C. § 1983 civil-rights action against King County and several individual Jail employees. Dkt. No. 10.¹ Plaintiff’s complaint alleges, among other things, that the Jail’s grievance procedure is unconstitutional. *Id.* at 6-10. It also moves the Court for “an immediate injunction” directing

¹The Court declined to serve plaintiff's initial complaint because he indicated that he wished to amend it. Dkt. No. 8. Plaintiff filed a first amended complaint on June 8, 2006. Dkt. No. 9. On June 13, 2006, a "corrected" version of the amended complaint was filed. Dkt. No. 10. The Court directed service of the corrected amended complaint. Dkt. No. 11.

01 the Jail to make specific changes to its grievance procedure. *Id.* at 8-10. The Court construed
02 this as a motion for a preliminary injunction and directed defendants to respond.² Dkt. No. 11.
03 Defendants have filed a motion opposing plaintiff's motion. Dkt. No. 22. Having carefully
04 reviewed the parties' papers, supporting materials, and the record, the Court recommends that
05 the motion for preliminary injunction be DENIED.

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07 II. ANALYSIS

08 The central purpose of a preliminary injunction is to preserve the status quo pending
09 resolution of the merits of the case at trial. *Chalk v. United States District Court*, 840 F.2d
10 701, 704 (9th Cir. 1988). The Ninth Circuit has identified two alternative tests for
11 determining whether a preliminary injunction should be granted:

12 Under the traditional criteria, a court may grant a preliminary injunction if a
13 plaintiff shows (1) a strong likelihood of success on the merits, (2) the
14 possibility of irreparable injury to plaintiff if preliminary relief is not granted, (3)
15 a balance of hardships favoring the plaintiff, and (4) advancement of the public
16 interest (in certain cases). Alternatively, a court may grant a preliminary
17 injunction if a plaintiff demonstrates either a combination of probable success
on the merits and the possibility of irreparable harm *or* that serious questions
are raised and the balance of hardships tips sharply in his favor.

18 *Earth Island Institute v. U.S. Forest Service*, 442 F.3d 1147, 1158 (9th Cir. 2006) (internal
19 quotations and citations omitted).

20 Plaintiff's motion fails under both formulations. As an initial matter, plaintiff's motion
21 does not seek to preserve the status quo. To the contrary, plaintiff's motion seeks to compel
22 an extensive revision of the Jail's internal grievance procedure. Plaintiff's motion requests,
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26 ²Because plaintiff subsequently indicated that he wished to again amend his complaint,
(though he later indicated he would not), the Court struck the original deadline for defendants
to respond to the motion for a preliminary injunction. Dkt. Nos. 15, 19-21.

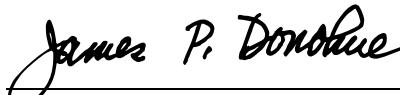
01 among other things, that the Jail use new types of grievance forms, assign a “third party
02 sergeant” to review grievances, and provide inmates with a “receipt” copy of their grievance.
03 Dkt. No. 10 at 8-10. This type of detailed relief is inconsistent with the purpose of a
04 preliminary injunction and is more appropriate to consider if and when plaintiff prevails.
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06 Additionally, plaintiff has not shown that he is likely to succeed on the merits of his
07 claims. Although his complaint makes serious allegations, it provide little evidence that
08 suggests he is likely to prevail. Indeed, the precise nature of his claims remains largely unclear
09 at this stage of the litigation. Moreover, plaintiff has not demonstrated that he will suffer
10 irreparable injury if the preliminary injunction is not granted. Plaintiff has indicated that he
11 believes the Jail’s grievance procedure would be better if it implemented his proposed changes,
12 but has not indicated that he will suffer any injury pending the resolution of the merits of his
13 claims. As to the third factor, plaintiff has not shown that the balance of hardships tips in his
14 favor. He has not demonstrated that that the current grievance procedure is causing him any
15 particular hardship. While it is true that plaintiff is incarcerated, this fact alone is an
16 insufficient basis upon which to grant the motion.
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19 III. CONCLUSION

20 Because plaintiff’s request does not seek to preserve the status quo, and because he
21 has not satisfied the standard for granting a preliminary injunction, the Court recommends that
22 plaintiff’s motion be DENIED. A proposed order accompanies this report and
23 recommendation.
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01 DATED this 21st day of August, 2006.
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JAMES P. DONOHUE
United States Magistrate Judge